# BEFORE THE ADDITIONAL INDUSTRIAL TRIBUNAL IN MYSORE, BANGALORE.

*Dated 20th January 1967.*

**Present:**

Sri V. C. Ramachandran, B.Sc., (Lond) Bar-at-Law. — Presiding Officer.

**Complaint No. 19 of 1966 in A. I. D. No. 12 of 1966.**

**(Complaint No. 37 of 1966 in I.D. No. 99 of 1966)**

| *Complainants:* | | *Opposite Party.* |
|---|---|---|
| K. N. Sridharapanikar, B. No. RC38-15, Bharat Earth Movers Ltd., Bangalore-17. | *Vs.* | The Management of Bharat Earth Movers Ltd., Bangalore. |

**Appearances.**

Sri A. Nagesh Rao, Advocate, Bangalore — *For the Complainant.*

Sri S. G. Sunderaswamy, Advocate, Bangalore ... *For the Opposite party*

**Reference.**

(Government Order No. LMA 139 LLD 66, dated 7th April 1966.)

**AWARD.**

This is a complaint under Section 33-A of the industrial Disputes Act 1947, by Sri K. N. Sridharapanikar for an alleged contravention of Section 33 of the said Act by his employer, the Management of Bharat Earth Movers, Ltd., Bangalore, during the pendency of an Industrial dispute between the Workmen and the Management of the said Company in I. D. No. 99 of 1966. By G. O. No. LMA 595 LLE 66, dated 29th November 1966, the Government of Mysore, have withdrawn the proceedings of this case from the Industrial Tribunal, Bangalore, and transferred the

said proceedings to the Additional Industrial Tribunal, Bangalore, for disposal. The case was then renumbered as Complaint No. 19 of 1966 in A. I. D. No. 12 of 1966.

2. The complainant is an employee of the Bharat Earth Movers Ltd., which started functioning from 1st January 1965. Prior to that, he was an employee of the Hindustan Aeronautics Limited, and the Bharat Earth Movers Ltd., was formed from the Railcoach and Earth Movers Division of Hindustan Aeronautics Limited. The complainant and the other employees of the Hindustan Aircraft Limited and its successor, Bharat Earth Movers Limited, are entitled to the rights and previleges that they were enjoying from the beginning. One of the benefits that they have been getting is what is known as production Bonus based on efficiency in the month of May every year along with the salary for the month of April. The payment of production Bonus was one of the conditions of service of the employees. The case of the complainant is that the Management has altered the conditions of service by avoiding the payment of production Bonus for the year 1965-66. This alteration of condition of service has taken place during the pendency of an industrial dispute between the Workmen and the Management of the Bharat Earth Movers Ltd., and is, therefore, attracted by the provisions of Section 33 of the Industrial Disputes Act, 1947. The Complainant prayed that an Award directing payment of Production Bonus for the year 1965-66 together with costs & c. be passed.

3. The Management opposed the complaint contending that there has been no alteration of condition of service and that Production Bonus was introduced in lieu of Bonus based on profits in pursuance of the Settlement dated 21st April 1958. The employees cannot ask for both Production Bonus under the Memorandum of Settlement as well as for Profit Sharing Bonus. The Management did however, make a provisional payment without prejudice to the contentions of both the parties in the Reference. Therefore, there has been no change in the conditions of service of the Complainant and they pray that the complaint be rejected.

4. Several Issues were framed but they are not of much interest considering what has happened subsequently. The Management have paid certain sum for the financial year 1965-66 and the complainant alleges that it was not paid as production

Bonus. In order to clarify the position, the Management was asked as to the nature of payment made to the employees for the financial year 1965-66 and the Management have clarified in the Memo dated 9th January 1967 that they have filed before this Tribunal to the effect that the Payment made by them was no other than the Production Bonus for the year 1965-66 under the existing Production Bonus Scheme introduced in the year 1958 pursuant to the Memorandum of Settlement and the claim for the Production Bonus Payment is without prejudice to the rights of the Management in the Main Reference. In view of this statement by the Management, there can possibly be no dispute and the complainant has in his turn filed a Memo withdrawing the complaint as he is not anxious to press the same. He reserves his right to agitate in the main reference the question as to whether the payment of production bonus exonerates the Management from paying the Profit Sharing Bonus.

4. In view of the Memo filed by the Complainant and the clarification given by the Management, there is no need to go into the complaint further and I pass the following Award :—

## AWARD.

The Complaint filed alleging that there has been change in the conditions of service against the provisions of Section 33 of the Industrial Disputes Act, 1947 is rejected. The dismissal of this complaint is without prejudice to the rights of Parties in the Industrial Dispute pending before this Tribunal with regard to the claim for the Profit Sharing Bonus in addition to the Production Bonus under the Payment of Bonus Act, 1965.

There will, however, no order as to cost in the circumstances of the case.

V. C. RAMACHANDRAN,
*Presiding Officer,*
*Additional Industrial Tribunal*
*Bangalore.*